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*Attorneys for Defendants
Romeo Aranas, Karen Gedney, and Dana Marks*

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

RICHARD L. GRUBER,

Plaintiff,

v.

KAREN GEDNEY, et al.,

Defendants.

Case No. 3:15-cv-00543-RCJ-CBC

**ORDER GRANTING
MOTION TO QUASH TRIAL SUBPOENA**

Defendants, Romeo Aranas, Karen Gedney and Dana Marks, by and through counsel, Aaron D. Ford, Attorney General of the State of Nevada, Douglas R. Rands, Sr. Deputy Attorney General and Gerri Lynn Hardcastle, Deputy Attorney General, hereby move this Court for an Order Quashing the Trial Subpoena issued to Gerri Lynn Hardcastle. This Motion is made and based upon the attached Points and Authorities, the papers and pleadings on file herein, and such other and further information as this Court may deem appropriate.

MEMORANDUM OF POINTS AND AUTHORITIES

I. FACTUAL ANALYSIS

Plaintiff, Richard Gruber (Plaintiff), is an inmate in the lawful custody of the Nevada Department of Corrections (NDOC). ECF No. 1 at 1. He commenced this pro se civil rights action pursuant to 42 U.S.C. § 1983 over three (3) years ago, on November 5, 2015. ECF No. 1-1. Plaintiff raises one count and

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1 alleges that Defendants, Dr. Karen Gedney and Dr. Dana Marks (collectively, Defendants), were
2 deliberately indifferent to his serious medical need of diagnosis and treatment of Parkinson's disease (PD).
3 ECF No. 34 at 3.

4 Trial in this matter is set to commence on August 12, 2019. In preparation for trial, Plaintiff,
5 apparently filed several trial subpoenas. (ECF No. 146). While the Subpoenas were not served on the
6 witnesses, in an abundance of caution, the Defendants move to quash Plaintiff's trial subpoena directed a
7 Gerri Lynn Hardcastle. Ms. Hardcastle is one of the trial attorneys in this matter.

8 **II. LEGAL ANALYSIS**

9 A subpoenaed party may move to quash or modify subpoenas on various grounds. On timely
10 motion, a court must quash or modify a subpoena that: "(i) fails to allow a reasonable time to comply; (ii)
11 requires a person to comply beyond the geographical limits specified in Rule 45(c); (iii) requires disclosure
12 of privileged or other protected matter, if no exception or waiver applies; or (iv) subjects a person to undue
13 burden." Fed. R. Civ. P. 45(d)(3)(A). On the other hand, a court may quash or modify a subpoena if it
14 requires: "disclosing a trade secret or other confidential research, development, or commercial
15 information." Fed. R. Civ. P. 45(d)(3)(B)(I). "[A] court determining the propriety of a subpoena balances
16 the relevance of the discovery sought, the requesting party's need, and the potential hardship to the party
17 subject to the subpoena." *Am. Broad. Cos., Inc. v. Aereo, Inc.*, No. CV-12-80300-RMW, 2013 WL
18 1508894, at *3 (N.D. Cal. Apr. 10, 2013).

19 In this matter, Ms. Hardcastle is one of the attorneys for the Defendants. Any of her discussions
20 with the Defendants and most of her work on this matter would be protected by the Attorney Client
21 privilege. "The purpose of the attorney-client privilege is to protect every person's right to confide in
22 counsel free from apprehension of disclosure of confidential communications." *In re Grand Jury*
23 *Subpoena (Osterhoudt)*, 722 F.2d 591, 593 (9th Cir.1983) (citing *United States v. Sherman*, 627 F.2d 189,
24 192 (9th Cir.1980); *Baird v. Koerner*, 279 F.2d 623, 629-30 (9th Cir.1960)); see also *Fisher v. United*
25 *States*, 425 U.S. 391, 403, 96 S.Ct. 1569, 1577, 48 L.Ed.2d 39 (1976). Fed. R. Civ. P. 45(d)(3)(A) (iii)
26 states the Court must quash a subpoena that requires disclosure of privileged matters. Therefore, the Court
27 should grant this Motion to Quash.

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1 **III. CONCLUSION**

2 Based upon the above, it is respectfully requested this Court grant the Defendant's Motion to
3 Quash Trial Subpoena to Gerri Lynn Hardcastle.

4 DATED this 7th day of August, 2019.

5 AARON D. FORD
6 Attorney General

7 By:


8 DOUGLAS R. RANDS, Bar No. 3572
9 Senior Deputy Attorney General

10 *Attorneys for Defendants*

11 **IT IS SO ORDERED**

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13 U.S. DISTRICT JUDGE

14 DATED August 9, 2019
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